

§ 320.1

7 CFR Ch. III (1–197 Edition)

320.7 Responsibility for opening and cleaning.

320.8 Responsibility for disinfection.

320.9 Soil.

AUTHORITY: 7 U.S.C. 149 and 150ee; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

SOURCE: 24 FR 10822, Dec. 29, 1959, unless otherwise noted.

§ 320.1 Administration.

The Deputy Administrator of the Plant Protection and Quarantine Programs is charged with the administration of the provisions of this act and the regulations in this part concurrently with the Plant Quarantine Act and the quarantines and orders issued thereunder.

§ 320.2 Regulated vehicles, articles, and materials.¹

To carry out the purpose of the aforesaid act to prevent the introduction of insect pests and plant diseases the regulations in this part shall apply to railway cars, boats crossing the Rio Grande, aircraft, drawn or self-propelled vehicles (such as wagons, carts, trucks, automobiles), freight, baggage, containers, and articles or materials which may be contaminated with insect pests or plant diseases.

§ 320.3 Definitions.

For the purpose of this part the following words, names, and terms shall be construed, respectively, to mean:

(a) *Inspector* means an inspector of the Plant Protection and Quarantine Programs, U.S. Department of Agriculture.

(b) *Owner or agent* includes both the singular and the plural and denotes the person, agent, firm, company, or official, having responsible custody of railway cars, vehicles, or other materials subject to these regulations.

(c) *Disinfection* includes any treatment or process designed to destroy insect pests or plant disease organisms.

(d) *Railway cars* includes all types of cars commonly employed in the transportation of freight, such as box, flat, tank, refrigerator, gondola, stock, etc.

¹The entry of certain plants and plant products is regulated or prohibited by quarantines and regulations promulgated under the Plant Quarantine Act, as amended.

(e) *Cleaning* means the removal, to the satisfaction of the inspector, of matter, other than the cargo and articles being moved, which may carry insect pests or plant diseases from railway cars, other vehicles, freight, express, baggage, and other materials.

(f) *Other vehicles* includes means of conveyance other than railway cars, such as aircraft, boats, automobiles, trailers, trucks, wagons, and carts, etc.

(g) *Other materials* includes all commodities, articles, and materials which may be the means of introducing insect pests or plant diseases into the United States.

(h) *Soil*. The loose surface material of the earth in which plants grow, in most cases consisting of disintegrated rock with an admixture of organic material and soluble salts.

§ 320.4 Inspection.

As a condition of entry into the United States from Mexico all articles and materials designated in § 320.2 shall be subject to examination by an inspector for the purpose of determining whether they may enter the United States without risk of introducing insect pests and plant diseases.

§ 320.5 Railway cars.

When the inspector has determined by examination that railway cars may enter the United States without risk of introducing insect pests and plant diseases into the United States, he shall, insofar as these regulations may govern, permit their entry. If the examination discloses that any car is contaminated and would involve risk of introducing insect pests or plant diseases into the United States, he shall prescribe, as condition of entry, cleaning, transfer of cargo, or disinfection, or all three. When cleaning alone has been prescribed and done to the satisfaction of the inspector he shall permit the entry of the cleaned cars, insofar as these regulations may govern entry. When disinfection is prescribed the entry of the cars shall be conditioned on their being fumigated, under the supervision of the inspector, either in a Government-owned fumigation house or otherwise in a place and by methods prescribed by the inspector. Immediately upon entry of railway cars for

fumigation they shall be moved by the owner or agent having charge of same directly to the Government-owned fumigation plant or “spotted” at an approved place and before placing the cars in the fumigation chambers or “spotting” them for fumigating the railroad company servicing the cars shall cause the car doors to be opened and subsequent to fumigation it shall be the responsibility of the railroad company to remove the cars from the fumigation plant or place where they have been “spotted” and to close the car doors when the occasion requires. When the prescribed fumigation has been accomplished in manner required by the Deputy Administrator of the Plant Protection and Quarantine Programs, the inspector shall permit entry into the United States insofar as this part may govern. The inspector may authorize temporary entry of railway cars under conditions to be prescribed by him for unloading or loading in railroad yards at the port of entry or for intransit movement from and to Mexico.

§ 320.6 Vehicles, articles, and materials, other than railway cars and unregulated boats.

When the inspector has determined by examination that vehicles, other than railway cars and unregulated boats, or any of the various articles and materials covered by this part may enter the United States without risk of introducing insect pests or plant diseases, he shall permit their entry insofar as the regulations in this part may govern. If the examination by the inspector discloses such regulated vehicles, articles, or materials are contaminated and would involve risk of introducing insect pests or plant diseases into the United States, he shall prescribe, as a condition of entry, cleaning, transfer of cargo, or disinfection, or any or all of these. The cleaning, transfer of cargo and disinfection shall be carried out under his supervision and to his satisfaction and until it has been so accomplished, entry into the United States shall be refused.

§ 320.7 Responsibility for opening and cleaning.

The owner or agent in charge of railway cars, other vehicles, and freight, express, baggage, articles, or other materials shall open these for inspection as required by the inspector and provide reasonable access to every part thereof, and when cleaning is prescribed by the inspector as a condition of entry, shall so open, and clean, and do any and all things reasonably pertaining thereto as required by the inspector. All costs incident to entry, opening, and cleaning shall be paid by the owner or agent in charge. Services of the inspector during regularly assigned hours of duty at the usual places of duty shall be furnished without cost to the person requesting the services, unless a user fee is payable under § 354.3 of this chapter.

[24 FR 10822, Dec. 29, 1959, as amended at 56 FR 14844, Apr. 12, 1991]

§ 320.8 Responsibility for disinfection.

When disinfection involves fumigation, the treatment may be done in Government-owned facilities available for that purpose or in the railway cars themselves. If, in the judgment of the inspector, fumigation will not provide adequate safeguards against the introduction of insect pests and plant diseases, he may prescribe another type of disinfection which shall be applied by the owner or agent under the supervision of the inspector. Costs incident to disinfection, other than for the services of the inspector, shall be borne by the owner or his agent.

[32 FR 8953, June 23, 1967]

§ 320.9 Soil.

Soil may be imported, as such, from Mexico at any port on the Mexican border only as authorized under this section.

(a) *Permits.* The Deputy Administrator of the Plant Protection and Quarantine Programs may issue permits for the importation of soil for research, analytical, religious, ceremonial, patriotic or similar purposes, or such other purposes as he shall deem consistent with the objectives of this

part, specifying in the permit or in the related correspondence, the safeguards, including methods of treatment or other conditions, which he deems necessary for the purpose of preventing the introduction of insect pests and plant diseases.

(b) *Applications for permits.* Only persons resident in the United States may apply for permits to import soil from Mexico at a port on the Mexican border. Any such person contemplating such an importation shall first make application for a permit by using the form provided therefor by the Plant Protection and Quarantine Programs or by submitting to the Plant Protection and Quarantine Programs, in the form of a letter or other written communication, the following information: Origin of the shipment, destination, quantity, method of shipment, proposed port of first arrival in the United States, approximate date of arrival in the United States, intended use, measures to be employed to prevent danger of dissemination of insect pests and plant diseases, method of final disposition, and the number of parcels expected to be moved. In acting upon the application for permit for such importation of soil, the Deputy Administrator will follow the procedures outlined in § 330.202 of this chapter for the consideration of applications for permits to move plant pests, insofar as they are applicable.

(c) *Issuance of permits; special mailing labels for mail importations.* Upon the approval of an application for a permit to import soil from Mexico under this part, a permit may be issued, including any conditions which, in the opinion of the Deputy Administrator, are necessary in order to prevent the introduction of insect pests and plant diseases. The Deputy Administrator may require the applicant to agree in writing to the conditions prior to the issuance of the permit. The importer will receive with the permit information on the manner in which the importation is to be made. Permission to import soil without conditions may be issued orally by the inspector, if the soil is not imported by mail. All containers for soil are to be stoutly constructed so as to prevent breakage in transit and danger of dissemination of insect pests and plant

diseases and shall be appropriately labeled as to contents. If the soil is imported by mail, special mailing labels will be issued to the importer, with instructions for their use, which he is to send to the foreign shipper. The quantity of mailing labels issued will be sufficient for the foreign shipper to attach one to each parcel forwarded by mail. Such mailing labels will indicate to the postal and the plant quarantine officials that the importation is authorized under the conditions specified in the permit. Importations arriving by mail without labels will be subject to refusal of entry into the United States by the inspector unless treated, at the expense of the owner, in a manner to remove danger of introduction of insect pests and plant diseases. The Deputy Administrator may issue mailing labels for importations into the United States of earth other than soil when the importation might otherwise be impeded because of similarity to earth subject to regulation under this section.

[24 FR 10822, Dec. 29, 1959, as amended at 32 FR 8954, June 23, 1967; 36 FR 24917, Dec. 24, 1971. Redesignated at 56 FR 14844, Apr. 12, 1991]

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AUTHORITY: 7 U.S.C. 136, 136a, 154, 159, and 162; 44 U.S.C. 35; 7 CFR 2.22, 2.80, and 371.2(c).

SOURCE: 24 FR 10824, Dec. 29, 1959, unless otherwise noted.